

IMMIGRATION REPORTING AND INFORMATION SHARING PRACTICES

502.1 PURPOSE AND SCOPE

The purpose of this policy is to memorialize the Shasta County Sheriffs Office immigration reporting and information sharing practices in accordance with the TRUST Act (AB 4; Government Code Sections 7282-7282.5), the TRUTH Act (AB 2792; Government Code Section 7283), the California Values Act (Senate Bill 54), and 8 USC Section 1373 and 8 USC 1644..

502.2 IMMIGRATION INQUIRIES PROHIBITED

Correctional Deputies shall not inquire into an individual's immigration status for immigration enforcement purposes (Government Code § 7284.6).

502.3 IMMIGRATION DETAINERS

As required by the California Values Act (Senate Bill 54), the Shasta County Sheriff's Office shall not detain an individual on the basis of a hold request, Government Code Section 7284.6(a)(1)(B).

A "hold request" is defined as a request from immigration authorities that a local law enforcement agency maintain custody of an individual currently in its custody beyond the time he or she would otherwise be eligible for release in order to facilitate a transfer to immigration authorities, Government Code Section 7283(b).

No individual should be held based solely on a federal immigration detainer under 8 CFR 287.7 (Government Code § 7284.6).

502.4 TRANSFERRING AN INDIVIDUAL TO IMMIGRATION AUTHORITIES

The California Values Act prohibits the Shasta County Sheriff's Office from transferring an individual to immigration authorities unless (1) authorized by a judicial warrant or a judicial probable cause determination, or (2) in accordance with Government Code Section 7282.5.

A "judicial warrant" means a warrant based on probable cause for a violation of federal criminal immigration law and issued by a federal judge or a federal magistrate judge that authorizes a law enforcement officer to arrest and take into custody the person who is the subject of the warrant.

A "judicial probable cause determination" means a determination made by a federal judge or federal magistrate judge that probable cause exists that an individual has violated federal criminal immigration law and that authorizes a law enforcement officer to arrest and take into custody the individual.

In the absence of a "judicial warrant" or "judicial probable cause determination," the Sheriff's Office may only transfer an individual to immigration authorities under the following circumstances as outlined in Government Code Section 7282.5:

Shasta County Sheriff's Office

Shasta County SO Custody Manual

IMMIGRATION REPORTING AND INFORMATION SHARING PRACTICES

1. The individual has been convicted at any time of a serious or violent felony, as defined in Penal Code section 1192.7(c), or Penal Code section 667.5(c).
2. The individual has been convicted at any time of a felony that is presently punishable by imprisonment in state prison.
3. The individual was convicted within the past 15 years of a felony listed in Government Code section 7282.5(a)(3), or within the past five years of a wobbler (i.e. a crime punishable as either a felony or misdemeanor) listed in Government Code section 7282.5(a)(3).
4. The individual is a current registrant on the California Sex and Arson Registry.
5. The individual has been convicted for specified federal aggravated felonies identified in 8 U.S.C. section 1101(a)(43)(A)-(P).
6. ICE identifies the person as the subject of an outstanding federal felony arrest warrant for any federal crime.

If an individual is transferred to immigration authorities, the Sheriff's Office shall report to the California Department of Justice the number of transfers it makes in a calendar year, as well as the offense that allowed for the transfer.

A conviction for a straight misdemeanor is not a valid justification for honoring a transfer request.

Before honoring a transfer request on the basis of a qualifying conviction, the individual's Record of Arrests and Prosecutions should be reviewed to determine whether a listed felony conviction was reduced to a misdemeanor, or re-designated as a misdemeanor by a court under Proposition 47. If so, the transfer is prohibited unless there is another valid basis for the transfer (such as a judicial warrant or judicial probable cause determination).

502.5 SHARING INFORMATION WITH IMMIGRATION

As required by the California Values Act (SB 54), the Shasta County Sheriff's Office shall not:

1. Provide to immigration authorities personal information about an individual unless that information is available to the public. "Personal information" means any information maintained by the Sheriff's Office that identifies or describes an individual including, but not limited to, his or her name when linked to other information that identifies or describes the person, social security number, physical description, home address, home telephone number, education, financial matters, and medical or employment history. It also includes statements made by, or attributed to, the individual.

The phrase "available to the public" refers to information where the Sheriff's Office has a practice or policy of making such information public, such as disclosing the information on its website or if it has a practice or policy of providing this information to individuals in response to specific requests, in compliance with applicable state or federal privacy laws.

2. Provide to immigration authorities information regarding a person's release date or respond to requests for notification by providing release dates or other information

Shasta County Sheriff's Office

Shasta County SO Custody Manual

IMMIGRATION REPORTING AND INFORMATION SHARING PRACTICES

unless that information is available to the public, or is in response to a notification request from immigration authorities in accordance with Government Code section 7282.5.

A “notification” request means a request from immigration authorities to inform immigration authorities of the release date and time in advance of the public of an individual in custody.

Notification to a federal authority may be made prior to release of an individual who is the subject of a notification request only if the person meets at least one of the following (Government Code § 7282.5; Government Code § 7284.6):

- (a) Has been arrested and had a judicial probable cause determination for a serious or violent felony identified in Penal Code § 667.5(c) or Penal Code § 1192.7(c)
- (b) Has been arrested and had a judicial probable cause determination for a felony punishable by time in a state penitentiary
- (c) Has been convicted of an offense as identified in Government Code § 7282.5(a) (See offenses outlined in Policy 502.4 above)
- (d) Is a current registrant on the California Sex and Arson registry
- (e) Is identified by the U.S. Department of Homeland Security's (OHS) Immigration and Customs Enforcement (ICE) as the subject of an outstanding federal felony arrest warrant

A conviction for a straight misdemeanor is not a valid justification for honoring a notification request.

Before honoring a notification request on the basis of a qualifying conviction, the individual's Record of Arrests and Prosecutions should be reviewed to determine whether a listed felony conviction was reduced to a misdemeanor, or re-designated as a misdemeanor by a court under Proposition 47. If so, the notification is prohibited unless there is another valid basis for the notification (such as the information is publicly available).

The decision to report personal information or release dates to immigration will only occur if, in the judgment of the On-Duty Jail Commander the decision falls within the guidelines stated above.

502.6 PROCEDURE FOR ICE INTERVIEWS

Before an individual in custody is made available for an interview with Immigration and Customs Enforcement (ICE) (whether in person or by phone, and including by being located in an area of the jail where ICE has the ability to approach the individual) for questioning:

The individual must be given a copy of the attached written consent form (TRUTH Act Form 1), which explains that the purpose of the interview is to investigate potential immigration violations,

Shasta County Sheriff's Office

Shasta County SO Custody Manual

IMMIGRATION REPORTING AND INFORMATION SHARING PRACTICES

that the interview is voluntary, and that he or she may decline to be interviewed and/or may choose to be interviewed only with his or her attorney present.

- The consent form shall be provided in the individual's preferred language, as indicated by the individual.
- The individual may indicate whether he or she consents to the interview by marking the form.
- If the individual does not affirmatively consent to the interview by signing the form, the individual shall not be made available for an ICE interview.
- If the individual indicates that he or she is only willing to speak to ICE with an attorney present, the individual shall not be made available for an interview until ICE has scheduled a meeting with the individual's attorney, and the attorney is present.
- The officer must also sign and date the form, indicating that it has been provided to the individual in his or her preferred language and when this occurred.

502.7 PROVIDING NOTICE TO AN INDIVIDUAL

Upon receiving an ICE hold, notification, or transfer request for any individual:

- (a) The individual shall promptly be given a copy of the request.
- (b) The individual shall be given a copy of the attached notification form, TRUTH Act Form 2, indicating whether the Department intends to comply with the request. Any decision to comply shall be made in conformance with Department policy and the California TRUST Act, Gov. Code §§ 7282-7282.5, and the California Values Act. If the Department has not yet made a decision about whether it intends to comply, it shall so inform the individual, and shall also inform the individual when it expects to make a decision and the criteria it will use in making that decision.
- (c) If the Department intends to comply with an ICE notification request, or has not yet made a decision about compliance, the individual shall be given the opportunity to complete the notification form with contact information for his or her attorney or any other individual the inmate chooses to designate.
- (d) If the Department notifies ICE that an individual is being, or will be, released on a certain date and time, the officer providing that information to ICE shall promptly provide the same notice, using TRUTH Act Form 3, to the individual. The Department also shall notify the individual's attorney or other designee, using the contact information provided by the individual on TRUTH Act Form 2. If notification to the attorney or designee is provided by phone, the Department shall subsequently provide, by email, the attorney or designee with a written copy of the notice given to the individual on TRUTH Act Form 3.

A “hold” request means a request from immigration authorities to maintain custody of an individual beyond the time he or she would otherwise be eligible for release in order to facilitate transfer to immigration authorities.

A “notification” request means a request from immigration authorities to inform immigration authorities of the release date and time in advance of the public of an individual in custody.

Shasta County Sheriff's Office

Shasta County SO Custody Manual

IMMIGRATION REPORTING AND INFORMATION SHARING PRACTICES

A “transfer request” means a request from immigration authorities facilitate the transfer of an individual in custody to immigration authorities.

502.8 ADDITIONAL RESTRICTIONS

As required by the California Values Act, the Shasta County Sheriff's Office shall not:

- (a) Use immigration authorities as interpreters for law enforcement matters relating to individuals in custody.
- (b) Provide office space exclusively dedicated for immigration authorities for use within a Shasta County law enforcement facility.
- (c) Enter into a contract with the federal government to house or detain noncitizens in a locked detention facility for purposes of immigration custody.

The Shasta County Sheriff's Office shall otherwise comply with all restrictions outlined in Government Code section 7284.6. If a deputy requires direction, he or she shall immediately contact his or her on-duty commanding officer.

502.9 PUBLIC ACCESS TO RECORDS

Upon receiving any request pursuant to the California Public Records Act, Government Code §§ 6250 - 6276.48, for information related to ICE's access to individuals, responsive records shall be produced consistent with the Act's requirements.

502.10 DATA TO BE PROVIDED TO THE SHASTA COUNTY BOARD OF SUPERVISORS ANNUALLY

Commencing January 1, 2018, the local governing body of Shasta County in which a local law enforcement agency has provided ICE access to an individual during the last year shall hold at least one community forum as outlined in Government Code 7283.1. The forum shall be during the following year, that is open to the public, in an accessible location, and with at least 30 days' notice to provide information to the public about ICE's access to individuals and to receive and consider public comment.

As part of this forum, the local law enforcement agency may provide the governing body with data it maintains regarding the number and demographic characteristics of individuals to whom the agency has provided ICE access, the date ICE access was provided, and whether the ICE access was provided through a hold, transfer, or notification request or through other means. Data may be provided in the form of statistics or, if statistics are not maintained, individual records, provided that personally identifiable information shall be redacted.